

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

A BILL FOR

1 An Act relating to the use of electronic communication devices
2 while driving, and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.210, subsection 2, paragraph e, Code
2 2017, is amended by striking the paragraph.

3 Sec. 2. Section 321.276, Code 2017, is amended to read as
4 follows:

5 **321.276 Use of electronic communication device while driving**
6 ~~—text-messaging.~~

7 1. For purposes of this section:

8 ~~a. "Engage in a call" means talking or listening on a mobile~~
9 ~~telephone or other portable electronic communication device.~~
10 "Electronic communication device" means an electronic device
11 capable of being used to compose, send, receive, or read an
12 electronic message. "Electronic communication device" includes
13 but is not limited to telephones, personal digital assistants,
14 and portable or mobile computers.

15 ~~b. "Hand-held electronic communication device" means a mobile~~
16 ~~telephone or other portable electronic communication device~~
17 ~~capable of being used to write, send, or read a text message.~~
18 ~~"Hand-held electronic communication device" does not include a~~
19 ~~voice-operated or hands-free device which allows the user to~~
20 ~~write, send, or read a text message without the use of either~~
21 ~~hand except to activate or deactivate a feature or function.~~
22 ~~"Hand-held electronic communication device" does not include a~~
23 ~~wireless communication device used to transmit or receive data~~
24 ~~as part of a digital dispatch system. "Hand-held electronic~~
25 ~~communication device" includes a device which is temporarily~~
26 ~~mounted inside the motor vehicle, unless the device is a~~
27 ~~voice-operated or hands-free device. "Electronic message" means~~
28 a self-contained piece of digital communication, whether verbal
29 or written, that is designed or intended to be transmitted
30 between electronic communication devices. "Electronic message"
31 includes but is not limited to telephone calls, video calls,
32 electronic mail, text messages, instant messages, and commands
33 or requests to access an internet site.

34 ~~c. "Text message" includes a text-based message, an instant~~
35 ~~message, and electronic mail.~~

1 ~~d. The terms "write", "send", and "read", with respect~~
2 ~~to a text message, mean the manual entry, transmission, and~~
3 ~~retrieval of a text message, respectively, to communicate with~~
4 ~~any other person or device.~~

5 2. A person shall not use a ~~hand-held~~ an electronic
6 communication device ~~to write, send, or read a text message~~
7 while driving a motor vehicle unless the motor vehicle is at a
8 complete stop off the traveled portion of the roadway.

9 a. A person does not violate this section by using a global
10 positioning system or navigation system or ~~when, for the~~
11 ~~purpose of engaging in a call, the person selects or enters a~~
12 ~~telephone number or name in a hand-held mobile telephone or~~
13 ~~activates, deactivates, or initiates a function of a hand-held~~
14 ~~mobile telephone by using an electronic communication device in~~
15 a hands-free mode.

16 b. The provisions of this subsection relating to ~~reading a~~
17 ~~text message the use of an electronic communication device~~ do
18 not apply to the following persons:

19 (1) A member of a public safety agency, as defined in
20 section 34.1, performing official duties.

21 (2) A health care professional in the course of an emergency
22 situation.

23 (3) A person sending or receiving safety-related
24 information including emergency, traffic, or weather alerts.

25 3. Nothing in this section shall be construed to authorize
26 a peace officer to confiscate a ~~portable~~ an electronic
27 communication device from the driver or occupant of a motor
28 vehicle.

29 4. ~~a.~~ A person convicted of a violation of this section
30 is guilty of a simple misdemeanor punishable as a scheduled
31 violation under section 805.8A, subsection 14, paragraph "1".

32 ~~b. A violation of this section shall not be considered a~~
33 ~~moving violation for purposes of this chapter or rules adopted~~
34 ~~pursuant to this chapter.~~

35 5. ~~A peace officer shall not stop or detain a person solely~~

~~1 for a suspected violation of this section. This section is~~
~~2 enforceable by a peace officer only as a secondary action when~~
~~3 the driver of a motor vehicle has been stopped or detained for~~
~~4 a suspected violation of another provision of this chapter, a~~
~~5 local ordinance equivalent to a provision of this chapter, or~~
~~6 other law.~~

7 ~~6.~~ 5. The department, in cooperation with the department of
8 public safety, shall establish educational programs to foster
9 compliance with the requirements of this section.

10 Sec. 3. Section 321.555, subsection 2, Code 2017, is amended
11 to read as follows:

2. Six or more of any separate and distinct offenses within a two-year period in the operation of a motor vehicle, which are required to be reported to the department by section 321.491 or chapter 321C, except equipment violations, parking violations as defined in section 321.210, violations of registration laws, violations of sections 321.445 and 321.446, ~~violations of section 321.276~~, operating a vehicle with an expired license or permit, failure to appear, weights and measures violations and speeding violations of less than fifteen miles per hour over the legal speed limit.

22 Sec. 4. Section 805.8A, subsection 14, paragraph 1, Code
23 2017, is amended to read as follows:

24 1. ~~Text-messaging~~ Use of electronic communication device
25 while driving violations. For violations under section 321.276,
26 the scheduled fine is thirty dollars.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 Under current law, Code section 321.276 prohibits the
31 use of hand-held electronic communication devices to write,
32 send, or read text messages while driving a motor vehicle.
33 This bill expands that provision to prohibit any use of an
34 electronic communication device while driving. An electronic
35 communication device is a device capable of being used to

1 compose, send, receive, or read an electronic message, and
2 includes telephones, personal digital assistants, and portable
3 or mobile computers. An electronic message is a self-contained
4 piece of digital communication, whether verbal or written, that
5 is designed or intended to be transmitted between electronic
6 communication devices, and includes telephone calls, video
7 calls, electronic mail, text messages, instant messages, and
8 commands or requests to access an internet site.

9 Generally, the bill does not alter the exceptions existing
10 under current law, and adds an exception for the use of an
11 electronic communication device in a hands-free mode.

12 The bill eliminates the provision prohibiting a peace
13 officer from stopping or detaining a person solely for a
14 suspected violation of Code section 321.276, and makes a
15 violation of Code section 321.276 a moving violation. Under
16 current law, a moving violation can be considered for purposes
17 of administrative suspension of a driver's license or to
18 establish habitual offender status.

19 The bill rewords the applicable scheduled fine provision to
20 comply with the bill. The scheduled fine for a violation of
21 Code section 321.276 remains \$30. Under Code section 321.482A,
22 if the violation causes a serious injury, a court could impose
23 an additional fine of \$500 or suspend the person's driver's
24 license for not more than 90 days, or both. If the violation
25 causes a death, a court could impose an additional fine of
26 \$1,000 or suspend the person's driver's license for not more
27 than 180 days, or both.